

**Amendment and Response**

Applicant: Clyde M. Guest et al.

Serial No.: 09/848,479

Filed: May 3, 2001

Docket No.: A126.164.102

Title: SYSTEM AND METHOD FOR SELECTION OF A REFERENCE DIE

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**REMARKS**

These remarks are made in response to the Final Office Action mailed August 10, 2005, the Advisory Action mailed December 12, 2005, and the concurrently filed Request for Examination. In the Final Office Action, the Examiner rejected claims 73-75, 79-81, and 90-92 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sumie et al., U.S. Patent No. 5,943,437 ("Sumie") and Gallarda et al., U.S. Patent No. 6,539,106 ("Gallarda"). Claims 90-92 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sumie and Gallarda, and further in combination with Schemmel et al., U.S. Patent No. 5,943,551 ("Schemmel"). Claims 76, 82, 83, 86, 87, and 93 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sumie and Gallarda, and further in view of Miyazaki, U.S. Patent No. 6,031,607 ("Miyazaki"). Claim 98 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sumie and Gallarda, and further in combination with Khalaj et al., U.S. Patent No. 5,513,275 ("Khalaj"). Claims 78, 96, and 97 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sumie and Gallarda, and further in combination with Berezin et al., U.S. Patent No. 5,539,752 ("Berezin"). Claims 76, 82-89, and 93 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sumie and Gallarda, and further in combination with Brecher et al., U.S. Patent No. 5,544,256 ("Brecher"). Claims 77, 94, and 95 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sumie and Gallarda, and further in combination with Michael, U.S. Patent No. 5,640,200 ("Michael"). Claims 94 and 95 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of Sumie, Gallarda, and Schemmel as applied to claim 90 above, and further in combination with Michael.

With this Response, the amendments to claims 73, 79, 84, 85, and 88-90 and cancellation of claims 76, 80-83, 86, 87, and 98 as previously set forth in the November 10, 2005 Amendment After Final, have been re-presented. In addition, claim 99 has

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been added. Claims 73-75, 77-79, 84, 85, 88-97, and 99 are presented for consideration and allowance.

**Claim Amendments**

Each of independent claims 73, 79, and 90 has been amended. In particular, those claims have been amended to include limitations previously presented in claims depending directly, or indirectly from each of those respective claims. Applicant is unsure from the Advisory Action mailed December 12, 2005 whether the identical amendments previously presented in the November 10, 2005 Amendment After Final were formally entered. If not, it is respectfully requested that such amendments be entered.

**Support for New Claim 99**

Support for new claim 99 is provided throughout the Specification, for example at page 16, ll. 14-18. As such, it is respectfully requested that newly presented claim 99 be entered.

**35 U.S.C. § 103 Rejections**

Each of claims 73-75, 77-79, 84, 85, and 88-97 stand rejected under 35 U.S.C. § 103 as unpatentable over one or more references, all in combination with Gallarda. Gallarda has a filing date of January 8, 1999. In response, Applicant respectfully requests entry and review of the § 131 Declaration and corresponding exhibits previously filed on November 10, 2005 that otherwise establish that Gallarda does not qualify as prior art under § 102(e). In view of at least the above-referenced evidence, Gallarda is not available for the Examiner's rejection of claims 73-75, 77-79, 84, 85, and 88-97.

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In light of the above, it is believed that the rejection of claims 73-75, 77-79, 84, 85, 88-97 is fully traversed. Withdrawal of the rejection, allowance claims 73-75, 77-79, 84, 85, and 88-97, and notice to that effect are respectfully requested.

New claim 99 relates, in part, to a difference image analysis system operable to analyze a difference image and determine whether to accept both the first die image and the second die image as reference die images or to reject both the first die image and the second die image. Claim 99 depends from claim 73 and as such is believed similarly patentable over the cited references. Furthermore, claim 99 can be distinguished from the cited references for at least the following additional reasons. In particular, Gallarda specifically teaches use of an arbitrator image "when comparing images of two regions on a wafer to remove ambiguity as to which of the two is defective...." *Gallarda* at col. 6, ll. 19-21 (emphasis added). As such, Gallarda fails to teach or suggest determining whether to accept both a first die image and a second die image as reference die images or to reject both a first die image and a second die image as required by the limitations of claim 99. In fact, Gallarda specifically teaches away from such limitations by indicating that the arbitrator image is used to determine whether only one of two images is associated with a defective region. As such, claim 99 is believed allowable for at least such additional reasons.

**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 73-75, 77-79, 84, 85, 88-97, and 99 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 73-75, 77-79, 84, 85, 88-97, and 99 are respectfully requested.

Applicants hereby authorize the Commissioner for Patents to charge Deposit Account No. 50-0471 the amounts of \$395.00 (to cover the fees as set forth under 37 C.F.R. 1.17(e)) and \$225.00 (to cover the fees set forth under 37 C.F.R. 1.17(a)(2)).

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Any inquiry regarding this Amendment and Response should be directed Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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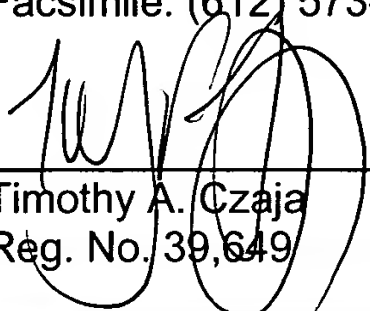
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**CERTIFICATE UNDER 37 C.F.R. 1.8:**

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10<sup>th</sup> day of January, 2006.

By: 

Name: Timothy A. Czaja